



# United States Department of the Interior

## NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

MAY 7 2007

Re: **Warr-Lane Building, 3009 West Main Street, Lewistown, Montana**  
Project Number: 16340  
Taxpayer's Identification Number:

Dear

My review of your appeal of the decision of Technical Preservation Services, National Park Service, denying certification of the rehabilitation of the property cited above is concluded. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. Thank you for speaking with me via a conference call on March 22, 2007, and for providing a detailed account of the project.

After careful review of the complete record for this project, including the additional material sent via fax on March 22, I have determined that the rehabilitation of the Warr-Lane Building is not consistent with the historic character of the property and the historic district in which it is located, and that the project does not meet Standard 2 of the Secretary of the Interior's Standards for Rehabilitation. Therefore, the denial issued on February 5, 2007, by Technical Preservation Services (TPS) is hereby affirmed. However, I have further determined that the project could be brought into conformance with the Standards, and thereby be certified, if the corrective measures described below are undertaken.

Built about 1913, the Warr-Lane Building is located in the Lewistown Central Business Historic District, and was certified as contributing to the significance of the historic district on June 27, 1985. The completed rehabilitation was found not to meet the Standards for Rehabilitation owing to the new storefront.

I agree with TPS that the new storefront fails to meet the Standards for Rehabilitation. This is indeed unfortunate, since the storefront existing at the start of this recent rehabilitation was a later and unsympathetic alteration to the original storefront. Judging from the architectural drawing in the project file dated 1913, that original feature complemented the upper stories of this modest Beaux Arts building quite handsomely. It was replaced about 1960 with a new storefront; at that time the prism glass transom was removed, as were the curved display windows, the marble bulkheads, and the lower half of the surrounding terra cotta frame. In place of this rather elegant composition, the 1960 modification installed vinyl siding covering the area of the transom and former canopy, new display windows lacking the original curve, and a faux stone veneer commonly known as "permastone" or "formstone" replacing the original marble in the bulkhead under the show windows and replacing the terra cotta on the lower half of the surrounding frame. This later storefront also modified the overall proportions of the earlier one: the transom area was made significantly larger, extending below the scar of the removed canopy without any visual indication of its former location. Thus, the display windows and entrance became shorter. This change in proportion was incompatible with the character of the original design because the upper portion

of the storefront now weighed heavily on the lower section. The entire storefront appeared squatter by comparison with the design of the original.

Because the existing storefront was non-historic, three options were available at the start of the rehabilitation under review here. Each one would have been acceptable under the tax incentives program: to keep the circa 1960 storefront, to restore the original storefront to its documented 1913 appearance, or to install a new storefront compatible with the historic character of the overall building. You opted for the third approach, but the new storefront falls short of the compatibility test in several respects.

The new storefront repeats the awkward proportions of the 1960 storefront, and the varnished wood window frames, bulkhead, and sill are not in keeping with the character of this 1913 building. Because storefronts are invariably character-defining features of small commercial buildings, the final result here causes the project to contravene Standard 2, which states: *"The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."*

Although I agree with TPS that installing opaque tiles in place of a glass transom is not a recommended treatment, and would normally cause damage to the historic character of the building, in this instance, I do not agree with TPS that the infill material itself (slate tiles sized to mimic prism glass tiles) or its dull finish causes unacceptable damage to the historic character. The upper portion of the storefront existing at the time the rehabilitation commenced no longer lit the interior. Thus, I find that the use of tiles to mimic the original glass prisms is sufficiently compatible with the historic character of the original material, and does not, in itself, violate the Standards.

While the project as completed does not meet the Standards, I believe it can be brought into conformance with them if the following remedial measures were to be taken. The wood strips applied to the window frames and sills are not compatible and must be removed. You may leave the underlying aluminum frame exposed or coat the frame components to resemble the copper cladding specified in the 1913 design. The wood bulkhead below the show windows need not be replaced, given that no finish remained once the faux stone veneer was removed, but the bulkhead finish must be changed. I suggest that it be painted to match the restored terra cotta frame in color. The wood ceiling in the entrance does not need to be changed.

As for the new infill in the historic transom/canopy area: the objection here is solely to the proportions of the new infill. I believe this can be successfully remedied by shortening the height of the dark tile outline by installing dark tiles in the lower three rows, and raising the lower edge of the outlined frame. This will make the upper portion of the transom area appear to be smaller, cause the bottom portion of the transom to "read" as it would have when the historic canopy was in place, and thus acceptably remedy the incompatible proportions of the infill. However, changing the tile pattern is not the only possible remedial solution and you are free to submit other approaches.

I reach this decision with some reluctance, given the effort made here to repair the damaged terra cotta surround. The new work, executed in fiberglass, is very successful. In addition, the rehabilitation retained the interior of the building to a significant and unusual degree. Yet the storefront is such a prominent feature that the deficiencies noted above preclude certification to the completed project. However, I am confident that the remedial measures cited above can allow the project to be certified as meeting the minimum requirements for certification established by law.

As a final matter in this case, I have reviewed the alleged procedural error raised in your letter dated March 5, 2007, and discussed in our conference call; namely, that the staff of the Montana State Historic Preservation Office reviewed and approved all the elements of the storefront before the work was done.

This contention seems to be based on the letter from SHPO historic architecture specialist dated November 9, 2005. In it, he "encourages you to redo the transom as best you can..." and then states: "I don't believe that you need to re-write your amendment sheet, but do recommend that you submit a modified drawing showing the new layout of the fire separation wall on the second floor." Yet this latter statement clearly refers to the plan for the fire separation wall, and not to the storefront, a final design for which was never submitted to either the SHPO or TPS, despite the condition placed on the proposed application approved "with conditions" by TPS on August 11, 2005: "The proposed exterior storefront work... must be compatible with the historic character of the building. Detailed design information (including drawings) on these treatments should be reviewed and approved by the State Historic Preservation Office and the National Park Service before proceeding with the work." Moreover, even if the SHPO had "approved" the storefront design, I note that both the application instructions, on page 1, and Department of the Interior regulations state that "Approval of applications and amendments to applications is conveyed only in writing by duly authorized officials of the NPS..." [36 CFR Part 67.3(b)(5)]. Additionally, both the application instructions, on page 2, and Department of the Interior regulations strongly encourage owners to apply before beginning work. While owners are free to apply after rehabilitation has begun, regulations state that "*Owners who undertake rehabilitation projects without prior approval from the Secretary do so strictly at their own risk.*" [36 CFR Part 67.6(a)(1).]

If you choose to proceed with the additional measures described above, I would suggest that you submit proposals specifying how the work will be accomplished and secure approval before proceeding. You may submit any proposals, with a copy to the Montana State Historic Preservation Office, to me at, Technical Preservation Services, National Park Service, Attention: Michael Auer. Note that this project will remain ineligible for the tax incentives until it is designated a "certified rehabilitation" following completion of the overall project.

As Department of the Interior regulations state, my decision is the final administrative decision regarding rehabilitation certification. A copy of this decision will be provided to the Internal Revenue Service. Questions concerning specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

Sincerely,



John A. Burns, FAIA  
Chief Appeals Officer  
Cultural Resources

cc: SHPO-MT  
IRS